

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS Division

In re: **MONUMENT STREET FUNDING, LLC** )  
**vs.** )  
**ERNEST MOORE, JR.** ) Case No. **03-51907-DHA**  
**OLIVIA H. MOORE a/k/a** ) Chapter **13**  
**OLIVIA HARRISON MOORE** )  
Debtor

**NOTICE OF MOTION (OR OBJECTION)**

**MONUMENT STREET FUNDING, LLC** has filed papers with the court to **LIFT THE STAY**

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion (or objection), or if you want the court to consider your views on the motion (or objection), then on or before **15 days after date of service**, you or your attorney must:

- ☐ File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

Clerk of Court  
United States Bankruptcy Court (**NEWPORT NEWS DIVISION**)  
**101 25th STREET**  
**NEWPORT NEWS, VIRGINIA 23607**

You must also mail a copy to:

**(Movant's Attorney, name and address)**  
**(Names and addresses of all others to be Served)**

- ☐ Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. **If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing**

☐ Attend the hearing on the motion (or objection) scheduled to be held on \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_ m. at United States  
Bankruptcy Court, \_\_\_\_\_  
\_\_\_\_\_

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 8/14/03

Signature, name, address and telephone number  
of person giving notice:

Stephen B. Wood, Esquire  
1601 Rolling Hills Drive, Suite 125  
Richmond, Virginia 23229  
(804) 288-0088  
 Virginia State Bar No. 26518  
 Counsel for Movant

## Certificate of Service

I hereby certify that I have this 14th day of August, **2003**, mailed or hand-delivered a true copy of the foregoing Notice of Motion (or Objection) to the parties listed on the attached service list.

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division

IN RE:	*	CASE NO.: 03-51907-DHA
ERNEST MOORE, JR.	*	
OLIVIA H. MOORE, a/k/a	*	
OLIVIA HARRISON MOORE	*	
Debtors	*	
* * * * *		
MONUMENT STEET FUNDING, LLC	*	
vs.	*	CHAPTER 13
ERNEST MOORE, JR.	*	
OLIVIA H. MOORE, a/k/a	*	
OLIVIA HARRISON MOORE	*	
Respondents	*	
* * * * *		

NOTICE: Pursuant to Local Rule 4001(a)-1(c), all parties to this Motion must file with the Court a written answer or other response permitted by applicable law within fifteen (15) days from date of service, as noted below. A copy of any pleading filed must be sent to counsel for the movant at the address noted below and to all other parties required by the applicable rule.

**MOTION TO MODIFY STAY TO PERMIT  
FORECLOSURE OF THE DEED OF TRUST**

Now comes Monument Street Funding, LLC (hereinafter "movant") by its attorneys Friedman & MacFadyen, P.A. and Stephen B. Wood, Esquire and respectfully represent unto this court:

1. That on or about July 1, 2003 the debtors filed a voluntary petition under the provisions of 11 U.S.C. Chapter 13.
2. That the bankruptcy court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334 and 11 U.S.C. Section 362(a) and 28 U.S.C. Section 157.
3. That at the time of the initiation of these proceedings, the debtors are the owners of a parcel of real estate located in the City of Hampton, Virginia, as

**STEPHEN B. WOOD**  
V.S.B. # 26518

LAW OFFICES  
FRIEDMAN &  
MACFADYEN, P.A.  
1601 ROLLING HILLS DRIVE  
SURRY BUILDING, SUITE 125  
RICHMOND, VA 23229

(804) 288-0088  
FAX (804) 288-0052

described in the attached Deed of Trust also known as: 423 Seminole Road, Hampton, Virginia 23661.

4. That the debtors are justly indebted to Monument Street Funding, LLC pursuant to a Deed of Trust recorded among the Land Records of the City of Hampton, Virginia . A copy of this Deed of Trust is attached hereto as movant's exhibit "A".

5. That the debtors are now in default on the payment of installments due under the Deed of Trust to the secured creditor.

6. That the principal balance due and owing your movant pursuant to the Deed of Trust is approximately Sixty Thousand Seventy Nine and 48/100 Dollars (\$60,079.48) through August 31, 2003.

7. That the debtors are presently delinquent in excess of Three Thousand Three Hundred Seventy Seven and 2/100 Dollars (\$3,377.02) through August 31, 2003.

8. That the amount necessary to pay the total debt through August 31, 2003 is approximately Sixty Three Thousand Four Hundred Fifty Six and 50/100 Dollars (\$63,456.50).

9. That the debtors have not made two (2) post-petition monthly mortgage payments due and owing movant through August 31, 2003.

10. That the movant believes and avers that the debtors have no equity in the property since the total amount owed to movant under the terms of the Deed of Trust, including interest, costs and attorneys' fees clearly will exceed the value of the property.

11. That the interest of the movant in the said property

is not adequately protected. The property is not necessary for an effective reorganization.

12. Further, the movant avers that it has been and continues to be irreparably injured by the automatic stay afforded the debtors pursuant to Section 362(a) of the Bankruptcy Code, which prevents the movant from enforcing its rights under its Deed of Trust.

13. That cause exists for lifting the automatic stay provided for under Section 362(a) of the Bankruptcy Code to permit the movant to enforce its rights under its Deed of Trust.

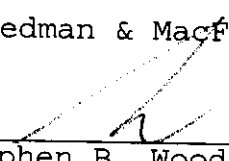
WHEREFORE, your movant prays:

A. That this court enter an Order lifting the automatic stay afforded the debtors by 11 U.S.C. Section 362(a) to enable the movant, and its agents, successors or assigns to proceed with the foreclosure sale of the property and to take all action necessary to secure the possession of the property.

B. That this court grant such other and further relief as it deems necessary.

C. That this court waive the stay of order referenced in Federal Rule of Bankruptcy Procedure 4001(a)(3).

Friedman & MacFadyen, P.A.

  
\_\_\_\_\_  
Stephen B. Wood, Esquire  
1601 Rolling Hills Drive  
Suite 125, Surry Building  
Richmond, Virginia 23229  
Counsel for the Movant  
VSB No.: 26518

CERTIFICATION OF SERVICE

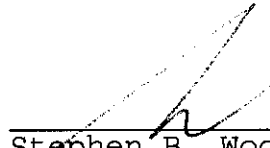
I hereby certify that a copy of the foregoing Motion to Modify Stay was mailed, first class postage prepaid, on this 14th day of August, 2003 to the following:

Richard G. Poinsett, Esquire  
2030 Coliseum Drive  
Suite C  
Hampton, Virginia 23666

George W. Neal, Trustee  
P.O. Box 147  
Portsmouth, Virginia 23705-1474

Ernest Moore, Jr.  
423 Seminole Road  
Hampton, Virginia 23661

Olivia H. Moore  
423 Seminole Road  
Hampton, Virginia 23661

  
\_\_\_\_\_  
Stephen B. Wood, Esquire